EQUITY—MISTAKE OF LAW AS A GROUND OF RELIEF.—A vendee paid part of the purchase price of land and greatly enhanced its value by improvements. Becoming poor and discouraged, he quitclaimed his interest in the land without any consideration except a lease of the premises, believing that he had forfeited his rights, and ignorant of the fact that he might make a tender and demand a conveyance of the land. Learning of his rights within a few days, he tendered the amount due and demanded a conveyance. *Held,* although this is a mistake of law, equity will grant relief. *Bronson* v. *Liebold* (Conn.), 87 Atl. 979.

The rule that equity will not relieve against a mistake of law, in conformity to the maxim, *ignorantia juris neminem excusat,* has often been laid down. *Weed* v. *Weed,* 94 N. Y. 243; *Clark* v. *Hart,* 57 Ala. 390; *Zollman* v. *Moore,* 21 Gratt. (Va.) 313; *Lyon* v. *Sanders,* 23 Miss. 530; *Hampton* v. *Nicholson,* 23 N. J. Eq. 423; 16 CYC. 73. But a strict application of the general rule is necessarily harsh, and the disposition of the modern courts is to allow many exceptions to it. BISPHAM, PRINCIPLES OF EQUITY, 187; STORY, EQUITY JURISPRUDENCE, 10 ed., 138. See note, 13 Fed. Rep. 256. Where the mistake of law was induced by the misrepresentation or undue influence of the other party, it is settled that equity will give relief. *Hardigree* v. *Mitchum,* 51 Ala. 151; *Whelen's Appeal,* 70 Pa. St. 410; *Hollingsworth* v. *Stone,* 90 Ind. 244. It is also held that where the mistake was a mistake of the scrivener, the instrument will be corrected in a court of equity, although the mistake of the scrivener was one of law. *Smith* v. *Owens,* 63 W. Va. 60, 50 S. E. 762. But where the instrument contains what the parties intended, it will not be reformed by a court of equity, although it fails to operate as they intended, because of their mistake of law. *Hunt* v. *Rousmanier,* 8 Wheat. (U. S.) 174; *Lanning* v. *Carpenter,* 48 N. Y. 408.

The courts have found it impossible to lay down any settled rule, but where the application of the maxim *ignorantia juris neminem excusat* would work great hardship, many of the courts have refused to follow it. *Wheeler* v. *Smith,* 9 How. (U. S.) 55.

EVIDENCE — HEARSAY — CONFESSIONS OF THIRD PERSONS. — Extrajudicial confession of a third person since deceased, charging himself with the commission of the murder for which the accused is being tried, *Held,* inadmissible as hearsay evidence. *Donelly* v. *United States,* 33 Sup. Ct. 449.

By the hearsay rule of evidence assertions offered testimonially which have not been subjected to the test of cross-examination are not admissible. But where a witness is unavailable, by reason of death or some other condition prohibiting his appearance in court, rather than lose such evidence, in certain well recognized instances hearsay evidence is admitted. Thus where a party since deceased has made declarations against his own interest, such admissions in some cases constitute an exception to the general rule and are admitted.

This exception has a peculiar history. It did not arise as a general principle, but from the practice in certain special cases of admitting such evidence. The first indication of such a rule is found in the practice

of receiving as evidence, the accounts of a deceased person charging himself with the receipt of money. *Barry* v. *Bebbington,* 4 T. R. 514. Declarations in disparagement of one's proprietary title were also admitted. *Davis* v. *Price,* 2 T. R. 53; *Doe* v. *Jones,* 1 Camp. 367. Later it seemed to be admitted as a general principle, that all declarations against interest by a party since deceased were admissible. *Higham* v. *Ridgway,* 10 East 109; *Middleton* v. *Melton,* 10 B. & C. 317. But in the *Sussex Peerage Case,* 11 Cl. & F. 85, an arbitrary limit was placed on the principle, confining it to statements against pecuniary or proprietary interest. The rule laid down in this case is followed in England. *Davis* v. *Lloyd,* 1 C. & K. 275; *Papendick* v. *Bridgwater,* 5 E. & B. 166.

The great weight of authority in the United States follows the English doctrine confining the exception to statements of facts against pecuniary or proprietary interest excluding those involving a penal liability. *State* v. *May,* 15 N. C. 328; *Snow* v. *State,* 58 Ala. 372; *Davis* v. *Commonwealth,* 95 Ky. 19, 23 S. W. 585, 44 Am. St. Rep. 201; *People* v. *Hall,* 94 Cal. 595, 30 Pac. 7. There is some authority to the contrary, holding that statements involving a penal liability made against interest may be admitted. *Coleman* v. *Frazier,* 4 Rich. L. (S. C.) 152.

No logical reason for the limitation established in the Sussex Peerage Case, *supra,* can be adduced, nor do the cases supporting the doctrine attempt to do so. It does not seem a logical distinction to differentiate statements against pecuniary interest and those subjecting the party making them if true to a penal liability. A man is as little likely to subject himself to penal as to pecuniary liability; and this is the philosophy on which this exception to the hearsay rule is based. The case of *Commonwealth* v. *Chabbock,* 1 Mass. 143, seems responsible for the establishment of the rule in the United States and an examination of this case shows little to commend it. The facts fail to show that the witness was unavailable by reason of death or other condition prohibiting his appearance in court, nor is any reason given, nor authority cited in the very short opinion.

It would seem that the Supreme Court of the United States in establishing the doctrine for the first time, in *Donelly* v. *United States, supra,* has overlooked an opportunity to rectify an illogical rule established by the English courts, although unquestionably it follows the weight of authority as established by the courts of the different states. In 2 WIGMORE EV., §§ 1476, 1477, is found an able criticism of the doctrine.

FRATERNAL BENEFIT SOCIETIES—KILLING OF INSURED BY INSANE BENEFICIARY.—The beneficiary and the insured were husband and wife. The husband, while insane, inflicted wounds upon the body of the wife, which caused her death, and then killed himself. No evidence was adduced as to which died first. Insurers refused payment on the grounds that the insane beneficiary's act avoided the policy under the terms of the following exception: "Murdered by Beneficiary.—If the member to whom this certificate shall be issued shall be murdered by any beneficiary named herein, or who may claim benefits hereunder,